Ann D. Berkowitz
Project Manager – Federal Affairs

1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 515-2539
(202) 336-7922 (fax)

January 29, 2003

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Application by Verizon Maryland, Verizon Washington, DC and Verizon West Virginia for Authorization To Provide In-Region, InterLATA Services in States of Maryland, Washington, DC and West Virginia*, WC Docket No. 02-384

Dear Ms. Dortch:

At the request of staff, Verizon provides this further information on the status of Verizon's interconnection agreements with Cavalier in Maryland, the District of Columbia and West Virginia.

In Maryland, Cavalier had adopted an arbitrated interconnection agreement between Verizon and Sprint. Cavalier's adoption of that agreement terminated on June 24, 2002. On November 20, 2002, Cavalier submitted a letter to the Maryland Public Service Commission that "requests consent by the State of Maryland to immediately arbitrate the terms of an interconnection agreement between Cavalier and Verizon Maryland Inc. ("Verizon")." *See* Attachment A. By that letter, "Cavalier is requesting immediate arbitration of an agreement identical to the recently-arbitrated agreement between Verizon-Virginia and WorldCom for Virginia, with the sole difference being any necessary allowances for price differences between Maryland and Virginia."

In the District of Columbia, Cavalier adopted an interconnection agreement between Verizon and Level 3. Cavalier's adoption of that agreement is scheduled to remain in effect until September 30, 2003.

In West Virginia, Verizon has no interconnection agreement with Cavalier.

Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 02-3511.

Sincerely,

Attachment

cc: G. Cohen
G. Gooke
G. Remondino
V. Schlesinger

Cole, Raywid & Braverman, L.L.P.

ATTORNEYS AT LAW
I9I9 PENNSYLVANIA AVENUE, N.W., SUITE 200
WASHINGTON, D.C. 20006-3458
Telephone (202) 659-9750
Fax (202) 452-0067
www.crblaw.com

Christopher W. Savage
Admitted in DC and California
Direct Dial
202-828-9811
chris.savage@CRBLaw.com

Los Angeles office
2381 Rosecrans Avenue, Suite II0
El Segundo, California 90245-4290
Telephone (3I0) 643-7999
Fax (3I0) 643-7997

November 20, 2002

VIA HAND DELIVERY

Felecia L. Greer, Executive Secretary
Maryland Public Service Commission
6 St. Paul Street
William Donald Schaefer Tower
Baltimore, Maryland 21202

Re: *Expedited Petition of Cavalier Telephone Mid-Atlantic, LLC, Pursuant to Paragraph 31(b) of the GTE Merger Conditions for Adoption for Use with Verizon Maryland Inc. of Interconnection Agreement Arbitrated between Verizon Virginia Inc. and WorldCom Inc.*

Dear Ms. Greer:

By this letter, and pursuant to Paragraph 31 of the conditions imposed on the merger of Bell Atlantic and GTE that created Verizon Communications,[1] Cavalier Telephone Mid-Atlantic, LLC ("Cavalier") respectfully requests consent by the State of Maryland to immediately arbitrate the terms of an interconnection agreement between Cavalier and Verizon Maryland Inc. ("Verizon"). Pursuant to Paragraph 31, Cavalier is requesting immediate arbitration of an agreement identical to the recently-arbitrated agreement between Verizon-Virginia and WorldCom for Virginia, with the sole difference being any necessary allowances for price

[1] *See* Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, *Memorandum Opinion and Order*, CC Docket No. 98-184 (released June 16, 2000), Appendix D ("Merger Conditions"). A copy of Paragraph 31 is attached hereto for ease of reference.

differences between Maryland and Virginia. For the reasons described below, Cavalier respectfully requests that the Commission grant this request on an expedited basis.

1. BACKGROUND.

Cavalier is a competing local exchange carrier ("CLEC") that operates in the market against Verizon in several states, including Virginia, Maryland, and Delaware. Verizon and Cavalier differ on a number of issues regarding Verizon's fulfillment of its obligations to CLECs under Sections 251 and 252 of the federal Communications Act and associated FCC rules and regulations. In some cases the parties are able to settle those differences, but in others, resort to arbitration or litigation is required.

Two issues between the parties lead to the filing of this letter: First is Cavalier's right to obtain dark fiber UNEs from Verizon connecting various locations, without having to incur the needless cost and delay associated with establishing colocation arrangements in "intermediate" central offices, through which Verizon's dark fiber passes but where Cavalier has no independent need to colocate. Second is Cavalier's right to obtain combinations of UNE loops and transport known as "Enhanced Extended Loops," or "EELs." Verizon is presently denying Cavalier access to these arrangements, and expedited arbitration by the Commission appears to be the most efficient way of resolving them.

Had Verizon dealt with Cavalier in an orderly, good faith fashion, there would be no need for this letter. Cavalier has been operational in Maryland for some time, both directly and through its recently-acquired affiliate, Connectiv Communications ("Connectiv"). While (as Cavalier understands things) Verizon has routinely continued to operate with other CLECs after their interconnection agreements had expired and replacement agreements were established (either by arbitration or negotiation), with Cavalier Verizon took a different tack. By letters dated November 26, 2001 (with respect to Connectiv) and March 26, 2002 (with respect to Cavalier itself), Verizon unilaterally purported to terminate the parties' then-effective interconnection agreements.

Verizon was not so bold — or at least not so openly defiant — as to literally "turn off" Cavalier's interconnection arrangements. However, Verizon has apparently taken the position that no additional arrangements (not embraced by the prior agreements) will be established between Verizon and Cavalier — even if plainly required by federal law — until a new agreement is established. As a result, Verizon is taking advantage of its monopoly control over Maryland's local exchange network — that is, its status as an incumbent local exchange carrier ("ILEC") — to try to pressure Cavalier into accepting lesser rights than it is afforded under federal law.

2. PARAGRAPH 31 AND THE WORLDCOM AGREEMENT.

Verizon's behavior in this situation — both on its own and in comparison with the treatment Cavalier believes that Verizon has accorded to other CLECs — raises a number of

potential grounds for complaint by Cavalier against Verizon. That said, there appeared to Cavalier to be a reasonably straightforward solution to the impasse — the recently-arbitrated agreement established for Virginia between Verizon and WorldCom.[2]

The WorldCom agreement is not perfect from Cavalier's perspective. Even so, Cavalier recognizes (as Verizon, frankly, should also recognize), that agreement was established after exhaustive litigation before the Federal Communications Commission ("FCC") (acting on behalf of the Virginia regulators) and reflects that body's best effort to apply its own understanding of the current requirements of federal law to ILEC-CLEC disputes. It is hard to see how Verizon could in good faith object to any of its provisions as contrary to federal law — the only legitimate ground for disputing them.[3]

The purpose of the GTE Merger conditions was to mitigate the anticompetitive effects flowing from the creation of the massive Verizon Communications out of pre-merger giants GTE and Bell Atlantic. GTE and Bell Atlantic consented to the Merger Conditions as part of the process of obtaining approval of their merger — consummation of which was expressly tied to the post-merger Verizon abiding by them.

One of the concerns underlying the Merger Conditions was that the monolithic Verizon would subject CLECs to the "death of a thousand cuts" — delays, negotiating costs, and litigation costs spent fighting, in state after state, the same issues that CLECs had fought ***and won*** in other states. Paragraph 31 addresses this concern in two ways. Paragraph 31(a) says that where, after the merger, a Verizon company agrees to all or part of an interconnection agreement in one state, the agreed-to terms will be automatically available in any other Verizon state. With respect to agreement provisions that were arbitrated rather than negotiated, Paragraph 31(b) does not eliminate Verizon's right to fight about such provisions in other states. It does, however, do two things. First, Verizon's decision to fight in State B about a provision imposed by arbitration for State A has to be in good faith. Second, Verizon has automatically waived its right to insist

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[2] *See* Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, *Memorandum Opinion and Order*, CC Docket No. 00-218 (released October 8, 2002) ("Approval Order"). This order approved the terms of the agreement between Verizon and WorldCom that the FCC's Wireline Competition Bureau had just completed arbitrating on behalf of the Virginia state regulators, who had declined the opportunity to conduct the arbitration themselves. *See* Petition of WorldCom, Inc. for Preemption of Jurisdiction of the Virginia State Corporation Commission Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996 and for Arbitration of Interconnection Disputes with Verizon-Virginia, Inc., *Memorandum Opinion and Order,* CC Docket No. 00-218 (released January 19, 2001). A copy of the Agreement accompanies this letter.

[3] Paragraph 31 exempts from cross-border adoption any provisions that are legitimately "specific" in certain ways to the state for which the arbitration was conducted. For example, the specific prices of UNEs established in one state may not be "exported" to another state. Cavalier does not dispute the application of this rule and is not seeking to import Virginia-specific price or other terms into Maryland.

upon 135 to 160 days of negotiation before a CLEC's request to adopt provisions arbitrated in another state can be brought to the regulators of the second state for review and determination. The obligation of good faith will, ideally, keep some disputes from arising; and the waiver of negotiation — with the consent of the affected state — will cut the delays to which the CLEC is subject essentially in half.

Verizon has been less than enthusiastic about its obligations under the Merger Conditions. For example, in litigation that concluded in February 2002, the FCC ruled that Verizon had violated Paragraph 32 of the Merger Conditions which — like Paragraph 31 at issue here — required that Verizon in certain cases permit the use of interconnection agreement terms from one state in another.[4] It is therefore probably not surprising that Verizon is resisting its obligations under Paragraph 31 as well.

That said, all that is now needed to resolve this matter between Verizon and Cavalier is for the State of Maryland, acting through the Commission, to consent to bring this matter to immediate arbitration. Cavalier respectfully requests that the Commission do so on an expedited basis.

3. THE NEED FOR EXPEDITED TREATMENT.

Expedited treatment is needed here because Verizon's conduct is seriously jeopardizing Cavalier's ability to offer its services on a reasonable, economical basis to Maryland consumers and businesses. Specifically, after Verizon unilaterally terminated the parties' prior interconnection agreements, it began refusing to provide certain UNEs to Cavalier.

Verizon apparently takes the position that Cavalier has no interconnection agreement with Verizon in Maryland at all. Cavalier notes that Verizon gave Cavalier no advance notice of its intent to terminate these agreements (beyond the minimal notice required by the contract language itself), nor any explanation of Verizon's reason for unilaterally canceling these agreements. However, Verizon's motives became clear in a May 21, 2002 letter from Verizon to Cavalier. In that letter, Verizon offered to ***rescind*** its termination of the interconnection agreement between Cavalier and Verizon if Cavalier would sign an amendment to the interconnection agreement.

The proposed amendment would have substantially altered the parties' formal relationship concerning reciprocal compensation obligations for traffic terminated to Internet service providers ("ISPs"). Cavalier had already advised Verizon, by letter dated August 14, 2001, that it believed no such amendment was necessary. Verizon even agreed, by letter to Cavalier dated October 2, 2001, that "no amendment is necessary," and stated that it would process payments for intercarrier compensation in accordance with the FCC's April 2001 order

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[4] *See* Global NAPs, Inc. v. Verizon, *Memorandum Opinion & Order*, File No. EB-01-MD-010 (released February 28, 2002) (finding Verizon violation of Paragraph 32 and Section 201(b) of the Act).

establishing a new, prospective regime for such compensation. The amendment proposed by Verizon would ostensibly have accomplished the same result. However, Verizon apparently wanted to accomplish some unstated aim in that amendment, and sought to strong-arm Cavalier with respect to some undisclosed aspect of ISP-bound traffic, rather than simply discussing the issue with Cavalier.

Second, Verizon recently began using its own, unilateral termination of its interconnection agreements with Cavalier as the basis for refusing to provide UNEs to Cavalier. Although Verizon continued providing some UNEs, such as unbundled local loops, Verizon has refused to supply Cavalier with: (a) dark fiber that passed through intermediate central offices without Cavalier going to the extra expense and effort of collocating in those intermediate central offices (which, in addition to needless expense, has the negative effect of introducing additional splice points in the fiber) and (b) combinations of UNEs, commonly referred to as enhanced electronic links ("EELs").

Cavalier pointed out that the FCC has found that requiring collocation in intermediate central offices violates federal law, specifically, 47 C.F.R. §§ 51.307 and 51.311.[5] Moreover, as Verizon is well aware, the U.S. Supreme Court recently upheld the validity of the FCC's "rules that say an incumbent shall…combine network elements to put a competing carrier on an equal footing with the incumbent…." *Verizon Communications Inc. v. FCC*, 535 U.S. 467, 122 S. Ct. 1646, 1687 (2002). Even so, Verizon has taken the position that both EELs and dark fiber without intermediate collocation sites are only available through amendments to Cavalier's interconnection agreement with Verizon, and — in Maryland — that Cavalier must first sign a new interconnection agreement with Verizon. Verizon is thus trying to force Cavalier into either: (a) signing an agreement with many provisions that Cavalier finds objectionable or inappropriate, or (b) "negotiating" with Verizon for the statutory period prescribed by 47 U.S.C. § 252, during which Verizon will refuse to supply Cavalier with UNEs such as dark fiber and EELs. Indeed, it was only after the unsuccessful conclusion of a recent set of Maryland negotiations pursuant to 47 U.S.C. § 252 that Verizon began refusing to provide Cavalier with EELs or with dark fiber without intermediate collocation sites.

In these circumstances, in addition to seeking consent by the Commission to conduct an arbitration to establish the terms of the Verizon-WorldCom agreement as applicable in Maryland, Cavalier also requests that the Commission issue an order, on an expedited basis, directing Verizon to provide EELs and dark fiber in accordance with FCC and Supreme Court rulings during the pendency of these proceedings. Verizon has no principled basis on which to refuse to provide such arrangements, and its failure to do so is, purely and simply, an exercise in

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[5] *See* In the Matter of Petition of WorldCom, Inc. for Preemption of Jurisdiction of the Virginia State Corporation Commission Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996 and for Arbitration of Interconnection Disputes with Verizon-Virginia, Inc., *Memorandum Opinion and Order*, CC Docket No. 00-218 (released July 17, 2002), at ¶ 457.

anticompetitive, monopolistic delay. The Commission should not countenance such behavior by Verizon.[6]

4. VERIZON DENIED CAVALIER'S REQUEST FOR CONSENT TO ADOPT THE VIRGINIA AGREEMENT.

To try to resolve this matter, Cavalier requested, by electronic-mail message dated November 8, 2002, that Verizon consent to adoption of the Virginia Agreement in Maryland. It was Cavalier's understanding that the Merger Conditions obligated Verizon to consider this request in good faith. In particular, footnote 73 to ¶ 31(b) of the Merger Conditions provides that:

> Bell Atlantic/GTE will act in good faith in determining whether to agree voluntarily to such arbitrated provisions in the latter state(s) and in determining whether to submit such arbitrated provisions to immediate arbitration in the latter state(s). For example, Bell Atlantic/GTE generally would not require a requesting telecommunications carrier to arbitrate in the latter state(s) a provision that previously was arbitrated and decided in that state(s), except to the extent necessary to preserve its appellate rights or to ask the state to reconsider based on changed or new facts or circumstances. Bad faith attempts by Bell Atlantic/GTE to block or delay adoption in a Bell Atlantic/GTE State of any UNE, whole interconnection agreement, or interconnection agreement provisions arbitrated in any other Bell Atlantic/GTE State after the Merger Closing Date would be considered a violation of this Order and could subject Bell Atlantic/GTE to penalties, fines or forfeitures pursuant to general Commission authority.

However, in an electronic-mail message dated November 13, 2002, Verizon responded to Cavalier's request by stating that it would ***not*** consent to adoption of the Virginia Agreement in Maryland under the Merger Conditions. Verizon instead stated that "any request by Cavalier to seek an immediate arbitration in Maryland under Paragraph 31(b) of the Merger conditions should be filed with the Maryland Commission."[7]

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[6] Cavalier stands ready to meet with Verizon under the auspices of the Commission — either the Commission itself, or an appropriate member of its staff — to reach a voluntary agreement on this point. *See* 47 U.S.C. § 252(a)(2) (mediation of disputes between ILECs and CLECs contemplated in addition to private negotiations and formal arbitration).

[7] Verizon has never clearly articulated the substantive basis for its refusal to consent. That said, by suggesting that Cavalier seek consent to immediate arbitration from this Commission, Verizon has conceded that Paragraph 31 applies here.

5. ADVERSE IMPACT ON CAVALIER'S ABILITY TO SERVE MARYLAND CUSTOMERS.

As noted, Verizon is refusing to provide either EELs or dark fiber without intermediate collocation sites. This Verizon refusal is directly, adversely, and materially affecting Cavalier's ability to offer telecommunications service to customers in Maryland. Both DSL-related services and "plain old telephone service" can be offered efficiently by a carrier in Cavalier's position only if it is able to aggregate traffic from a variety of Verizon central offices and efficiently deliver that traffic to Cavalier's more central locations. This transport function is in many cases most efficiently provided by EELs and/or dark fiber. Verizon's refusal to provide these UNEs, therefore, is dramatically slowing down Cavalier's ability to deliver its innovative, competitive, reasonably-priced services to market.

6. CONCLUSION AND REQUEST FOR RELIEF.

In these circumstances, Cavalier respectfully requests that the Public Service Commission take expedited action to consent to hear an immediate arbitration between Cavalier and Verizon, designed to allow Cavalier to rapidly adopt in Maryland the terms of the Verizon-WorldCom agreement just approved by the FCC,[8] and to promptly approve that agreement for application in Maryland. As noted above, Cavalier continues to face needless delay and unnecessary, added expense in obtaining dark fiber and EELs from Verizon. Cavalier, therefore, respectfully requests that the Commission take expedited action to grant the consent and approval requested by Cavalier.

In addition, Cavalier respectfully requests that the Public Service Commission issue an expedited interim order directing Verizon to provide EELs and dark fiber on the terms contained in the Virginia Agreement on an interim basis, subject to adjustment or amendment at the conclusion of whatever proceedings the Public Service Commission considers to be appropriate with respect to the adoption of the Virginia Agreement as a whole.

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[8] *See* Public Notice, DA 01-270, released February 1, 2001, *Procedures Established for Arbitration of Interconnection Agreements Between Verizon and AT&T, Cox, and WorldCom,* CC Docket Nos. 00-218, 00-249, 00-251 (establishing procedures for conduct of arbitration).

Please contact undersigned counsel if you have any questions or if you need any further information to respond to this request.

Respectfully submitted,

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Christopher W. Savage
K.C. Halm
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
Telephone: 202.659.9750
Fax: 202.452.0067
e-mail: chris.savage@crblaw.com
khalm@crblaw.com,

Stephen T. Perkins
Cavalier Telephone Mid-Atlantic, LLC
2134 West Laburnum Avenue
Richmond, Virginia 23227-4342
Telephone 804.422.4517
Fax 804.422.4599
e-mail: sperkins@cavtel.com,

- *and* -

Alan M. Shoer
Cavalier Telephone Mid-Atlantic, LLC
1275 K Street, N.W.
Washington, D.C. 20005
Telephone 202.371.0913
Fax 202.216.0954
e-mail: ashoer@cavtel.com

Counsel for Cavalier Telephone Mid-Atlantic, LLC

cc: Gregory M. Romano, Esquire (by mail and email) (w/ attachment)
Counsel for Verizon Maryland Inc.

Cole, Raywid & Braverman, L.L.P.

ATTORNEYS AT LAW
1919 PENNSYLVANIA AVENUE, N.W., SUITE 200
WASHINGTON, D.C. 20006-3458
Telephone (202) 659-9750
Fax (202) 452-0067
www.crblaw.com

Christopher W. Savage
(202) 659-9750
chris.savage@crblaw.com

Los Angeles Office
2381 Rosecrans Avenue, Suite 110
El Segundo, California 90245-4290
Telephone (310) 643-7999
Fax (310) 643-7997

November 20, 2002

VIA HAND DELIVERY

Felecia L. Greer, Executive Secretary
Maryland Public Service Commission
6 St. Paul Street
William Donald Schaefer Tower
Baltimore, Maryland 21202

Re: *Expedited Petition of Cavalier Telephone Mid-Atlantic, LLC, Pursuant to Paragraph 31(b) of the GTE Merger Conditions for Adoption for Use with Verizon Maryland Inc. of Interconnection Agreement Arbitrated between Verizon Virginia Inc. and WorldCom Inc.*

Dear Ms. Greer:

Attached please find an original, a stamp & return, and fourteen (14) copies of Cavalier Telephone Mid-Atlantic, LLC's Expedited Petition for Adoption of the interconnection agreement between Verizon Virginia, Inc. and WorldCom Inc. Also attached to this filing are a disk with electronic copies of the petition and the attachments to the petition. Please return a date stamped copy of this filing in the attached self addressed envelope.

Please contact undersigned counsel if you have any questions regarding this matter.

Sincerely,

Christopher W. Savage
Counsel for Cavalier Telephone Mid-Atlantic, LLC

cc: Gregory M. Romano, Esquire (*via First Class mail and e-mail*) (w/ attachment)
Counsel for Verizon Maryland Inc.

a. Prior to Merger Closing Date, Bell Atlantic/GTE shall retain one or more independent auditors acceptable to the Chief of the Common Carrier Bureau to perform an examination engagement and issue an attestation report resulting in a positive opinion (with exceptions noted) regarding Bell Atlantic/GTE's compliance with the Commission's UNE and line sharing requirements for any 4 consecutive full months after the Merger Closing Date. The audit required by this Paragraph shall be in lieu of any other audit of Bell Atlantic/GTE's compliance with the Commission's UNE requirements during the first 12 full months after the Merger Closing Date that otherwise would be required under these Conditions. The independent auditor shall not have been instrumental during the past 24 months in designing substantially all of the systems and processes under review in the audit, viewed as a whole. The engagement shall be supervised by persons licensed to provide accounting services and shall be conducted in accordance with the relevant standards of the AICPA. The independent auditor's report shall be prepared and submitted as follows:

(1) Not later than 30 days after the Merger Closing Date, the independent auditor shall submit a preliminary audit program, including the proposed scope of the audit and the extent of compliance and substantive testing, to the Commission's Audit Staff ("Audit Staff"). The preliminary audit program shall be afforded confidential treatment in accordance with the Commission's normal processes and procedures. The independent auditor shall consult with the Audit Staff and Bell Atlantic/GTE regarding changes to the preliminary audit program, but Commission approval of the requirements or changes thereto shall not be required.

(2) During the course of the audit, the independent auditor shall inform the Audit Staff of any revisions to the audit program; notify the Audit Staff of any meetings with Bell Atlantic/GTE in which audit findings are discussed; and consult with the Common Carrier Bureau regarding any accounting or rule interpretations necessary to complete the audit. The independent auditor shall notify Bell Atlantic/GTE of any consultation with the Common Carrier Bureau regarding accounting or rule interpretations.

(3) The independent auditor shall have access to books, records, and operations of Bell Atlantic/GTE and its affiliates that are under the control of Bell Atlantic/GTE and are necessary to fulfill the audit requirements of this Section. The independent auditor shall notify Bell Atlantic/GTE's compliance officer of any inability to obtain such access. The auditor shall notify the Audit Staff if access is not timely provided after notification to the compliance officer.

(4) The independent auditor may verify Bell Atlantic/GTE's compliance with the UNE and line sharing requirements through contacts with the Commission, state commissions, or Bell Atlantic/GTE's wholesale customers, as deemed appropriate by the independent auditor.

(5) Not later than 180 days after the Merger Closing Date, the independent auditor shall submit its final audit report to the Commission's Audit Staff. A copy of the report shall be publicly filed with the Secretary of the Commission.

(6) The independent auditor's report shall include a discussion of the scope of the work conducted; a statement regarding Bell Atlantic/GTE's compliance or non-compliance with the Commission's UNE and line sharing rules; a statement regarding the sufficiency of Bell Atlantic/GTE's methods, procedures, and internal controls for compliance with the Commission's UNE and line sharing rules; and a description of any limitations imposed on the auditor in the course of its review by Bell Atlantic/GTE or other circumstances that might affect the auditor's opinion.

(7) For 24 months following submission of the final audit report, the Commission and state commissions in the Bell Atlantic/GTE States shall have access to the working papers and supporting materials of the independent auditor at a location in Washington, D.C. that is selected by Bell Atlantic/GTE and the independent auditor. Copying of the working papers and supporting materials by the Commission shall be allowed but shall be limited to copies required for the Commission to verify compliance with and enforce these Conditions. Any copies made by the Commission shall be returned to Bell Atlantic/GTE by the Commission. The Commission's review of the working papers and supporting materials shall be kept confidential pursuant to the Commission's rules and procedures. Prior to obtaining access to the working papers and supporting materials for review, state commissions shall enter into a protective agreement with the Chief of the Common Carrier Bureau and Bell Atlantic/GTE under which the state commission's review, including any notes, shall be kept confidential.

29. The independent auditor(s) shall submit a budget(s) for completing the audits required in this Section that do not in the aggregate exceed $5 million. The auditor(s) may not exceed the budget(s) without first notifying the Chief of the Common Carrier Bureau and Bell Atlantic/GTE and obtaining their consent. Such consent shall not be unreasonably withheld.

IX. Most-Favored-Nation Provisions for Out-of-Region and In-Region Arrangements

30. Out-of-Region Agreements. Bell Atlantic/GTE shall make available to telecommunications carriers in the Bell Atlantic/GTE Service Area any service arrangements that an incumbent LEC (not a Bell Atlantic/GTE incumbent LEC) develops for a Bell Atlantic/GTE affiliate, at the request of the Bell Atlantic/GTE affiliate, where the Bell Atlantic/GTE affiliate operates as a new local telecommunications carrier. Specifically, if such a Bell Atlantic/GTE affiliate makes a specific request for and obtains any interconnection arrangement, UNE, or provisions of an interconnection agreement (including an entire agreement) subject to 47 U.S.C. § 251(c) and Paragraph 39 of these Conditions from an incumbent LEC that had not previously been made available to any other telecommunications carrier by that incumbent LEC after the Merger Closing Date, then Bell Atlantic/GTE's incumbent LECs shall make available to requesting telecommunications carriers in the Bell Atlantic/GTE Service Area, through good-faith negotiation, the same interconnection arrangement or UNE on the same terms (exclusive of

price and state-specific performance measures).[69] Bell Atlantic/GTE shall not be obligated to provide pursuant to this condition any interconnection arrangement or UNE unless it is feasible to provide given the technical, network and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made and with applicable collective bargaining agreements. Disputes regarding the availability of an interconnection arrangement or UNE shall be resolved pursuant to negotiation between the parties or by the relevant state commission under 47 U.S.C. § 252 to the extent applicable. The price(s) for such interconnection arrangement or UNE shall be negotiated on a state-specific basis and, if such negotiations do not result in agreement, Bell Atlantic/GTE's incumbent LEC or the requesting telecommunications carrier shall submit the pricing dispute(s), exclusive of the related terms and conditions required to be provided under this Paragraph, to the applicable state commission for resolution under 47 U.S.C. § 252 to the extent applicable. To assist telecommunications carriers in exercising the options made available by this Paragraph, each Bell Atlantic/GTE out-of-region local exchange affiliate shall post on its Internet website all of its interconnection agreements entered into with unaffiliated incumbent LECs.[70]

31. In-Region Post-Merger Agreements.

a. Subject to the Conditions specified in this Paragraph, Bell Atlantic/GTE shall make available to any requesting telecommunications carrier in the Bell Atlantic/GTE Service Area within any Bell Atlantic/GTE State any interconnection arrangement, UNE, or provisions of an interconnection agreement (including the entire agreement) subject to 47 U.S.C. § 251(c) and Paragraph 39 of these Conditions in the Bell Atlantic/GTE Service Area within any other Bell Atlantic/GTE State that (1) was voluntarily negotiated with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), by a Bell Atlantic/GTE incumbent LEC after the Merger Closing Date and (2) has been made available under an agreement to which Bell Atlantic/GTE is a party after the Merger Closing Date. Terms, conditions, and prices contained in tariffs cited in Bell Atlantic/GTE's interconnection agreements shall not be considered negotiated provisions. Exclusive of price and state-specific performance measures[71] and subject to the Conditions specified in this Paragraph, qualifying interconnection arrangements or UNEs shall be made available to the same extent and under the same rules that would apply to a request under 47 U.S.C. § 252(i), provided that (1) the interconnection arrangements or UNEs shall not be available beyond the last date that they are available in the underlying agreement and that the requesting telecommunications carrier accepts all reasonably related terms and conditions[72] as determined in part by the nature of the corresponding compromises between the parties to the

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[69] The performance measures applicable to the state where the agreement will be performed will apply.

[70] Links to the agreements must be displayed prominently on the initial page of each Bell Atlantic/GTE out-of-region local exchange affiliate's website or on the initial page of Bell Atlantic/GTE's corporate website for CLECs, or as otherwise directed by the Chief of the Common Carrier Bureau, to ensure easy accessibility.

[71] The performance measures applicable to the state where the agreement will be performed will apply.

[72] *See Local Competition Order*, 11 FCC Rcd 15499 (1996), ¶¶ 1309-1323.

underlying interconnection agreement and (2) interconnection arrangements or UNEs voluntarily negotiated or agreed to by a Bell Atlantic or GTE incumbent LEC prior to the Merger Closing Date cannot be extended throughout the Bell Atlantic/GTE Service Areas unless voluntarily agreed to by Bell Atlantic/GTE. The price(s) for such interconnection arrangement or UNE shall be established on a state-specific basis pursuant to 47 U.S.C. § 252 to the extent applicable. Provided, however, that pending the resolution of any negotiations, arbitrations, or cost proceedings regarding state-specific pricing, where a specific price or prices for the interconnection arrangement or UNE is not available in that state, Bell Atlantic/GTE shall offer to enter into an agreement with the requesting telecommunications carrier whereby the requesting telecommunications carrier will pay, on an interim basis and subject to true-up, the same prices established for the interconnection arrangement or UNE in the negotiated agreement. This subparagraph shall not impose any obligation on Bell Atlantic/GTE to make available to a requesting telecommunications carrier any terms for interconnection arrangements or UNEs that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. § 252, or the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. § 252(a)(1). Bell Atlantic/GTE shall not be obligated to provide pursuant to this Paragraph any interconnection arrangement or UNE unless it is feasible to provide given the technical, network and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made and with applicable collective bargaining agreements. Disputes regarding the availability of an interconnection arrangement or UNE shall be resolved pursuant to negotiation between the parties or by the relevant state commission under 47 U.S.C. § 252 to the extent applicable.

b. In the event that any requesting telecommunications carrier seeks to adopt any interconnection arrangement, UNE, or interconnection agreement provisions that are subject to 47 U.S.C. § 251(c) and Paragraph 39 of these Conditions in the Bell Atlantic/GTE Service Area within any Bell Atlantic/GTE State in the Bell Atlantic/GTE Service Area within any other Bell Atlantic/GTE State that (1) is covered by subparagraph a above (except for the requirement that such agreement be voluntarily negotiated), and (2) was the result of an arbitration conducted and decided in the former state under 47 U.S.C. § 252 after the Merger Closing Date, then either party may submit the arbitrated provisions to immediate arbitration in the latter state with the consent of the affected state (without waiting for the statutory negotiation period set out in 47 U.S.C. § 252 to expire).[73]

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[73] Bell Atlantic/GTE will act in good faith in determining whether to agree voluntarily to such arbitrated provisions in the latter state(s) and in determining whether to submit such arbitrated provisions to immediate arbitration in the latter state(s). For example, Bell Atlantic/GTE generally would not require a requesting telecommunications carrier to arbitrate in the latter state(s) a provision that previously was arbitrated and decided in that state(s), except to the extent necessary to preserve its appellate rights or to ask the state to reconsider based on changed or new facts or circumstances. Bad faith attempts by Bell Atlantic/GTE to block or delay adoption in a Bell Atlantic/GTE State of any UNE, whole interconnection agreement, or interconnection agreement provisions arbitrated in any other Bell Atlantic/GTE State after the Merger Closing Date would be considered a violation of this Order and could subject Bell Atlantic/GTE to penalties, fines or forfeitures pursuant to general Commission authority.

32. In-Region Pre-Merger Agreements. Subject to the Conditions specified in this Paragraph, Bell Atlantic/GTE shall make available: (1) in the Bell Atlantic Service Area to any requesting telecommunications carrier any interconnection arrangement, UNE, or provisions of an interconnection agreement (including an entire agreement) subject to 47 U.S.C. § 251(c) and Paragraph 39 of these Conditions that was voluntarily negotiated by a Bell Atlantic incumbent LEC with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), prior to the Merger Closing Date and (2) in the GTE Service Area to any requesting telecommunications carrier any interconnection arrangement, UNE, or provisions of an interconnection agreement subject to 47 U.S.C. § 251(c) that was voluntarily negotiated by a GTE incumbent LEC with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), prior to the Merger Closing Date, provided that no interconnection arrangement or UNE from an agreement negotiated prior the Merger Closing Date in the Bell Atlantic Area can be extended into the GTE Service Area and vice versa. Terms, conditions, and prices contained in tariffs cited in Bell Atlantic/GTE's interconnection agreements shall not be considered negotiated provisions. Exclusive of price and state-specific performance measures[74] and subject to the Conditions specified in this Paragraph, qualifying interconnection arrangements or UNEs shall be made available to the same extent and under the same rules that would apply to a request under 47 U.S.C. § 252(i), provided that the interconnection arrangements or UNEs shall not be available beyond the last date that they are available in the underlying agreement and that the requesting telecommunications carrier accepts all reasonably related[75] terms and conditions as determined in part by the nature of the corresponding compromises between the parties to the underlying interconnection agreement. The price(s) for such interconnection arrangement or UNE shall be established on a state-specific basis pursuant to 47 U.S.C. § 252 to the extent applicable. Provided, however, that pending the resolution of any negotiations, arbitrations, or cost proceedings regarding state-specific pricing, where a specific price or prices for the interconnection arrangement or UNE is not available in that state, Bell Atlantic/GTE shall offer to enter into an agreement with the requesting telecommunications carrier whereby the requesting telecommunications carrier will pay, on an interim basis and subject to true-up, the same prices established for the interconnection arrangement or UNE in the negotiated agreement. This Paragraph shall not impose any obligation on Bell Atlantic/GTE to make available to a requesting telecommunications carrier any terms for interconnection arrangements or UNEs that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. § 252, or the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. § 252(a)(1). Bell Atlantic/GTE shall not be obligated to provide pursuant to this Paragraph any interconnection arrangement or UNE unless it is feasible to provide given the technical, network and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made and with applicable collective bargaining agreements. Disputes regarding the availability of an interconnection arrangement or

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[74] The performance measures applicable to the state where the agreement will be performed will apply.

[75] *See Local Competition Order,* 11 FCC Rcd 15499 (1996), ¶¶ 1309-1323.

UNE shall be resolved pursuant to negotiation between the parties or by the relevant state commission under 47 U.S.C. § 252 to the extent applicable.

X. Multi-State Interconnection and Resale Agreements

33. Upon the request of a telecommunications carrier, Bell Atlantic/GTE shall negotiate in good faith an interconnection and/or resale agreement covering the provision of interconnection arrangements, services, and/or UNEs subject to 47 U.S.C. § 251(c) and Paragraph 39 of these Conditions in the Bell Atlantic/GTE Service Area in two or more Bell Atlantic/GTE States. Such a multi-state generic agreement may include a separate contract with each Bell Atlantic/GTE incumbent LEC. No later than 60 days after the Merger Closing Date, Bell Atlantic/GTE shall make available to any requesting telecommunications carrier generic interconnection and resale terms and conditions covering the Bell Atlantic/GTE Service Area in all Bell Atlantic/GTE States. Pricing under a multi-state generic agreement shall be established on a state-by-state basis and Bell Atlantic/GTE shall not be under any obligation to enter into any arrangement for a state that is not technically feasible and lawful in that state or is inconsistent with provisions in applicable collective bargaining agreements. Any agreement negotiated under this Section shall be subject to the state-specific mediation, arbitration, and approval procedures of Section 252 of the Communications Act. Approval of the agreement in one state shall not be a precondition for implementation of the agreement in another state where approval has been obtained.

XI. Carrier-to-Carrier Promotions: Unbundled Loop Discount

34. Bell Atlantic/GTE shall offer the unbundled loop carrier-to-carrier promotion described below in the Bell Atlantic/GTE Service Area. Bell Atlantic/GTE shall implement this promotion by providing each telecommunications carrier with which Bell Atlantic/GTE has an interconnection agreement in a Bell Atlantic/GTE State, no later than 30 days after the Merger Closing Date, a written offer to amend each telecommunications carrier's interconnection agreement in that state to incorporate the promotion. For purposes of this Section, an offer published on Bell Atlantic/GTE's Internet website that can be accessed by telecommunications carriers shall be considered a written offer.[76] Bell Atlantic/GTE shall establish necessary internal processes and procedures to ensure that Bell Atlantic/GTE's wholesale business units are responsive to telecommunications carriers' requests for the promotion. Bell Atlantic/GTE shall make its written offer in each state at the same time to all telecommunications carriers with which it has existing interconnection and/or resale agreements in that state. The agreement amendments for all carriers in a state that accept Bell Atlantic/GTE's written offer within 10 business days after the initial offer shall be filed for review and approval by the relevant state commission.

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[76] Links to the offer must be displayed prominently on the initial page of Bell Atlantic/GTE's corporate website for CLECs or as otherwise directed by the Chief of the Common Carrier Bureau to ensure easy accessibility.